

## **PART 1 – PROPOSED ASSESSMENT PROTEST**

**A taxpayer has 45 days to protest to the Legal division a proposed assessment.**

IC § 6-8.1-5-1(d) The notice [of proposed assessment] shall state that the person has forty-five (45) days from the date the notice is mailed to pay the assessment or to file a written protest.

**A taxpayer has 30 days to request a rehearing of the decision set out in a Letter of Findings. The Legal Division has the discretion to either grant or deny the request for rehearing.**

IC § 6-8.1-5-1(g) A person that disagrees with a decision in a letter of finding may request a rehearing not more than thirty (30) days after the date on which the letter of finding is issued by the department. The department shall consider the request and may grant the rehearing if the department reasonably believes that a rehearing would be in the best interests of the taxpayer and the state.

**After the Legal Division has issued a Letter of Findings, denied a rehearing request, or issued a Supplemental Letter of Findings, A taxpayer has 60 days to file an appeal with the Tax Court; the 60 days begins to run on the day the Legal Division issues its decision.**

IC § 6-8.1-5-1(h) If a person disagrees with a decision in a letter of finding, the person may appeal the decision to the tax court. However, the tax court does not have jurisdiction to hear an appeal that is filed more than sixty (60) days after the date on which: (1) the letter of finding is issued by the department, if the person does not make a timely request for a rehearing under subsection (g) on the letter of finding; or (2) the department issues a denial of the person's timely request for a rehearing under subsection (g) on the letter of finding.

## **PART 2 – SPECIAL TAX APPEAL SECTION**

### **A. 30-DAY PROTEST DEADLINE**

A taxpayer has 30 days to request an initial review by the Special Tax Appeal Section of two “special tax” assessments:

- (1) IFTA (International Fuel Tax Agreement) Fuel Taxes and;
- (2) IRP (International Registration Plan) Fees.

If the taxpayer is not satisfied with the decision of the Special Tax Appeal Section, the taxpayer may request a hearing on the proposed assessment by the Legal Division. The taxpayer must request a hearing with the Legal Division within 45 days after the Special Tax Appeal Section’s decision is issued. The request must be in writing. (IFTA Articles of Agreement: Art. XIV, R1410; IRP International Registration Plan: 1608; ice § 9-28-4-6; IC § 6-6-4.1-14.5).

*Example:* On June 1, the Department decides the taxpayer is liable for IRP fees. The taxpayer has 30 days beginning June 1 to request that the Special Tax Appeal Section review that decision. On June 13, the taxpayer requests that the Special Tax Appeal Section review the IRP fee assessment. The Special Tax Appeal Section issues a written notice dated July 1 denying the taxpayer’s request for review. The taxpayer has 45 days beginning July 1 to submit a written protest of the proposed assessment to the Legal Division.

### **B. 45-DAY PROTEST DEADLINE**

A taxpayer has 45 days to request an initial review by the Special Tax Appeal Section. This review may include any of the remaining 13 Special Taxes Administered by the Department of Revenue.<sup>1</sup> If the Special Tax Appeal Section is not able to resolve the disputed issue to the taxpayer’s satisfaction, the Review Request will be transferred to the Legal Division. After transfer, the Review Request will be reconsidered as a “Proposed Assessment Protest.” (See Part 1 above).

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<sup>1</sup> “Special Taxes” include: (1) Gasoline Tax; (2) Special Fuel Tax; (3) Motor Carrier Fuel Tax; (4) Hazardous Waste Disposal Tax; (5) IFTA (International Fuel Tax Agreement) Fuel Tax, IC § 6-6-4.1; (6) IRP (International Registration Plan) Fees, IC § 6-6-5.5; (7) SSRS (Single State Registration System) Fees, 45 IAC 16-1-11; (8) OSOW (Oversize Overweight) Fees, IC § 9-29-6; (9) Cigarette Tax; (10) OTP Tax; (11) Alcoholic Beverage Tax; (12) Petroleum Severance

**Example 1:** On September 1, the Department determines the taxpayer is liable for Hazardous Waste Disposal Tax. The taxpayer has 45 days beginning September 1 to request that the Special Tax Appeal Section review the decision. The taxpayer files a timely request for review but the Special Tax Appeal Section is not able to resolve the dispute to the taxpayer's satisfaction. The matter is transferred to the Legal Division. After transfer to the Legal Division, the taxpayer is offered the opportunity for a hearing and full administrative review of the assessment.

**Example 2:** On September 1, the Department determines that the taxpayer is liable for additional Hazardous Waste Disposal Tax. The taxpayer chooses to appeal the assessment directly to the Legal Division. The taxpayer has 45 days beginning September 1 to do so.

## **PART 3 – REFUND DENIAL PROTESTS**

**If the Department denies a claim for refund, the taxpayer must bear in mind the 45-day deadline to request an administrative hearing. The taxpayer must also keep in mind the 90-day deadline to file an appeal with the Indiana Tax Court.**

**The Legal Division interprets IC § 6-8.1-9-1(b) and IC § 6-8.1-5-1(d) as allowing a taxpayer 45 days to request an administrative hearing on any denial of a refund. The 45-day period begins the day on which the Department issues that initial decision.**

**Example:** The Department issues the taxpayer a notice dated June 1 indicating the taxpayer's refund request has been or will be denied. The taxpayer receives the notice on June 5. The taxpayer has 45 days beginning June 1 to request an administrative hearing appealing the decision.

**As of July 1, 2007, the Legal Division no longer has the discretion to deny taxpayer an opportunity for a hearing on a refund issue. If the taxpayer requests a hearing on a decision denying taxpayer a refund within the time required, the Legal Division shall hold a hearing**

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Tax; (13) Underground Storage Tank Fees, IC § 13-23-12-1; (14) Oil Inspection Fees. *See* IC § 6-8.1-4-1.6, IC § 16-44-2; (15) Commercial Vehicle Excise Tax (CVET), IC § 6-6-5.5.

**and will issue a written “Final Order Denying Refund” or a “Memorandum of Decision. In the document, the Legal Division will set out the reasons denying or granting the refund.**

**The Department will regard the “Final Order Denying Refund,” or “Memorandum of Decision” as the Department’s final decision on the refund issue.**

IC § 6-8.1-9-1(b) When the department receives a claim for refund, the department shall consider the claim for refund and shall, if the taxpayer requests, hold a hearing on the claim for refund to obtain and consider additional evidence. After considering the claim and all evidence relevant to the claim, the department shall issue a decision on the claim, stating the part, if any, of the refund allowed and containing a statement of the reasons for any part of the refund that is denied.

**The Taxpayer has 90 days to appeal to Tax Court the Department’s final decision of a refund request. A taxpayer’s request for an administrative hearing stops the running of the 90 days in which to appeal the Department’s first decision.**

IC § 6-8.1-9-1(c) If the person disagrees with any part of the department's decision, the person may appeal the decision, regardless of whether or not the person protested the tax payment or whether or not the person has accepted a refund. The person must file the appeal with the tax court. The tax court does not have jurisdiction to hear a refund appeal suit, if: (1) the appeal is filed more than three (3) years after the date the claim for refund was filed with the department; (2) the appeal is filed more than ninety (90) days after the date the department mails the decision of denial to the person; or (3) the appeal is filed both before the decision is issued and before the one hundred eighty-first day after the date the person files the claim for refund with the department.

***Example 1:*** The Department issues the taxpayer a notice dated June 1 indicating the taxpayer’s refund request has been or will be denied. On June 15, the taxpayer appeals the decision to the Legal Division requesting an administrative hearing. The Legal Division conducts an administrative hearing and issues either a “Final Order Denying Refund” or “Memorandum of Decision” dated September 1. The document issued September 1 constitutes the Department’s final decision on the matter. Assuming that the refund claim was not filed with the Department more

than 3 years before the September 1 date, the taxpayer has 90 days from September 1 to appeal the Department's final decision to the Tax Court.

***Example 2:*** The Department issues the taxpayer a notice dated June 1 indicating the taxpayer's refund request has been or will be denied. The taxpayer decides to appeal the Department's June 1 decision directly to the Tax Court forgoing the option of administrative review with the Legal Division. Assuming that the refund claim was not filed with the Department more than 3 years before the June 1 date, taxpayer has 90 days beginning June 1 to appeal the Department's decision to the Tax Court.

## **PART 4 – ADDRESSES**

Please address Requests for Review by the Special Tax Section to:

Ms. Dixie Browning  
Special Tax Appeal Section  
Indiana Department of Revenue  
100 North Senate Avenue  
Room N 241, Indiana Government Center North  
Indianapolis, IN 46204

Please address Appeals of a proposed tax assessment or refund denial to:

Mr. Dick Reed  
Appeals Protest Review Board  
Indiana Department of Revenue  
100 North Senate Avenue  
Room N 248, Indiana Government Center North  
Indianapolis, IN 46204-1104